

ARKANSAS SUPREME COURT

No. CR 09-53

AMOS RANSOM
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 16, 2009

PRO SE MOTION FOR USE OF THE
RECORD [CIRCUIT COURT OF
PULASKI COUNTY, CR 2005-592,
HON. WILLARD PROCTOR, JR.,
JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

A jury convicted appellant Amos Ransom of aggravated robbery, two counts of theft of property, two counts of first-degree terroristic threatening, two counts of kidnapping, and theft by receiving and sentenced him to an aggregate term of 840 months' imprisonment. The Arkansas Court of Appeals affirmed. *Ransom v. State*, CACR 06-278 (Ark. App. Nov. 1, 2006). Appellant timely filed a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1, which was denied. Appellant lodged an appeal of that order in this court and has filed a motion in which he seeks access to the record to prepare his brief.

We need not consider appellant's motion because it is clear that he cannot prevail on appeal. This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Booth v. State*, 353 Ark. 119, 110 S.W.3d 759 (2003) (per curiam). We accordingly dismiss the appeal and the motion is moot.

Appellant failed to verify the petition he filed as required by Rule 37.1(c). Effective March

1, 2006, Rule 37.1 was amended to more clearly require that a Rule 37.1 petition be verified. That amendment provided a form of affidavit to be attached to the petition. *Bunch v. State*, 370 Ark. 113, 257 S.W.3d 533 (2007) (per curiam). Appellant's petition was notarized, but no affidavit was attached. Under Rule 37.1(d), the circuit clerk is not to accept for filing any petition that fails to comply with the requirements of Rule 37.1(c). The trial court could not consider the issues in the petition. *Id.*; see also *Shaw v. State*, 363 Ark.156, 211 S.W.3d 506 (2005) (per curiam). In accordance with Rule 37.1(d), we dismiss appellant's appeal, and the motion for access to the record is moot.

Appeal dismissed; motion moot.